

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:12-CR-236-F1

UNITED STATES OF AMERICA

v.

DAVID NEIL PHILLIPS,  
Defendant.

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ORDER

This matter is before the court on the Defendant's Motion for new counsel and motion to withdraw his guilty plea, which he made in open court at his scheduled sentencing on April 29, 2013. In open court, the court questioned Phillips regarding his request for new counsel. Mr. Phillips current counsel, Mr. Wayne James Payne, represented that communications had broken down to the extent that continued representation was not feasible.

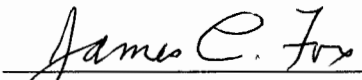
Therefore, the court will ALLOW Phillips motion for new counsel. The Federal Public Defender is DIRECTED to appoint new counsel for Phillips. The court defers ruling on Phillips's request to withdraw his guilty plea until Phillips has had an opportunity to confer with his new counsel. The court will set a hearing for **May 13, 2013 at 10:00 a.m.** in which Phillips's new counsel and the Government should be prepared to discuss whether the court should allow Phillips to withdraw his guilty plea. If Phillips is allowed to withdraw his guilty plea<sup>1</sup> the case will be set for trial during the May 13, 2013 term of court.

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<sup>1</sup> The court takes no position at this time as to whether it will allow Phillips to withdraw his guilty plea. The May 13, 2013 hearing is solely for the purpose of giving the lawyers an opportunity to argue the motion.

SO ORDERED.

This the 29<sup>th</sup> day of April, 2013.

  
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JAMES C. FOX  
Senior United States District Judge